

**MINUTES
of the
THIRTY-SIXTH MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**June 6, 2012
Santa Fe**

The thirty-sixth meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Representative Rick Miera, co-chair, on June 6, 2012 at 9:30 a.m. in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Rick Miera, Co-Chair
Sen. Vernon D. Asbill
Carl Foster
Cecilia Grimes
Leonard Haskie
Robbie Heyman
Rep. W. Ken Martinez
Sen. Sander Rue
Rep. Henry Kiki Saavedra

Absent

Sen. Cynthia Nava, Co-Chair
Paul Aguilar
Rep. Donald E. Bratton
Tom Clifford
Lisa Grover
Sen. Timothy Z. Jennings
Rep. Larry A. Larrañaga
Sen. Lynda M. Lovejoy
Rep. Ben Lujan
Rep. James Roger Madalena
Kilino Marquez
Lilliemae G. Ortiz
Mike Phipps
Judy Rabon
Sen. John Arthur Smith

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS
Tom Pollard, Legislative Fiscal Analyst, LCS
Leslie Porter, Research Assistant, LCS
Cassandra Jones, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Wednesday, June 6

Representative Miera welcomed the task force members. Noting the lack of a quorum, Representative Miera indicated that the election of co-chairs and approval of the work plan will be delayed until a quorum is present. He suggested that he assume the role of co-chair unless an objection was voiced. There being none, Representative Miera assumed the role of co-chair.

Brief Review of 2011 Task Force Work and Summary of 2012 Legislation

Ms. Ball told the task force that questions had been raised regarding potential conflicts between HB 283 (Laws 2011, Chapter 69) and SB 446 (Laws 2011, Chapter 14), both of which were introduced in the 2011 regular session. HB 283 requires standards for certain charter school facilities and also requires approval before entering into a lease-purchase agreement for school facilities. SB 446 requires contracts between charter schools and the chartering authority and also establishes contract requirements. The bill also creates an evaluation process for charter schools. Ms. Ball assured the task force that both laws have been reviewed carefully by staff, and because the bills do not amend the same section of statute, they do not conflict.

Senate Bill 196

Ms. Ball explained that SB 196 (Laws 2012, Chapter 53) was one of three bills endorsed by the PSCOOTF for the 2012 session. The bill establishes adequacy standards for special schools, making New Mexico the first state in the nation to do so.

Representative Miera introduced members of the Public School Capital Outlay Council (PSCOC) in attendance and asked them if they wished to comment on the inclusion of the special constitutional schools in the standards-based process. He then asked Tom Rutherford, a registered lobbyist for the New Mexico School for the Blind and Visually Impaired, to comment on SB 196 and its effects on that school's capital outlay program. Mr. Rutherford told the task force that the standards are appropriate and have been working well.

House Bill 100

HB 100, introduced by Representative Ray Begaye, failed to pass. The bill would have delayed the repeal of the Charter School Capital Outlay Fund. Because the bill did not pass, the fund will sunset as of July 1, 2012.

Senate Bill 214

SB 214, introduced by Senator Asbill, would have made more consistent the language in the purchasing code that addresses competitive sealed proposals. The bill was never heard in committee because it failed to receive an executive message.

Representative Miera invited PSCOC members to address the task force regarding other issues related to the standards-based process. David Abbey, director, Legislative Finance Committee (LFC), suggested that the task force consider looking at how capital outlay funds are distributed to rural schools that have a high facility condition index but low bonding capacity. Frances Ramírez-Maestas, director, Legislative Education Study Committee (LESC), expressed

a number of concerns, including the need to look at what criteria an institution must meet in order for the Public Education Department (PED) to assign it a school code, charter schools being eligible for the small school size adjustment and facility standards for virtual charter schools.

Ms. Ramírez-Maestas and Mr. Abbey answered questions from the task force regarding virtual charter schools. New Mexico currently has no regulations specifically applicable to virtual charter schools, so the schools are subject to the same regulations that apply to all charter schools. Several out-of-state contractors have submitted applications to establish virtual charter schools in New Mexico. Robert Gorrell, director, Public School Facilities Authority (PSFA), clarified that virtual charter schools will establish small facilities to provide resources for students. Task force members requested a list of virtual charter school applications. Task force members, as well as LFC and LESC staff, discussed a number of concerns, particularly about regulations and accountability for virtual charter schools in New Mexico.

PSCOC/PSFA Annual Report

Mr. Gorrell referred the task force to the PSCOC quarterly newsletter. The newsletter discusses the process and the outcome of developing adequacy standards for special schools, as is required by SB 196, which passed the 2012 legislature and was signed into law. He noted that the special schools worked very closely with the PSFA to establish adequacy standards that directly address their specific needs. He said that special schools in other states have shown interest in New Mexico's adequacy standards and may use the state as a model to develop their own. The newsletter also provides information regarding 2012 PSCOC project funding.

Mr. Gorrell directed the task force to a handout containing a list of pending applications for awards from the PSCOC. While schools are generally assessed as a full site rather than on a building-by-building basis, the PSCOC has decided temporarily to address each building separately on a special school site. Once facility conditions at the special schools have improved, the PSCOC will begin assessing the site as a whole. The total project cost of all of the applications currently under consideration is \$203 million. He noted that the PSCOC attempts to use just-in-time funding and continues to work hard to monitor and forecast when future funding will be needed. He noted that state statute gives the PSCOC the ability to allocate \$10 million for the 2012-2013 school year for roofing projects. Current applications exceed \$10 million, but application needs will be assessed and prioritized.

Mr. Gorrell described the development and implementation of the new Construction Information Management System (CIMS). The system allows schools to access information about their construction funds, pay vendors and exchange information as necessary. He explained that a Facilities Maintenance Assessment Report (FMAR) has been developed and is being utilized as funding allows. The FMAR allows management to oversee maintenance at all schools, while also allowing each school to utilize the system to track its own maintenance needs. Mr. Gorrell told the task force that in order to implement the FMAR statewide, the PSFA will require additional money and staff. In response to questions from the task force, Mr. Gorrell

clarified that access to the CIMS is limited to a certain number of users due to limited budget resources.

Members of the task force discussed the possibility of using the FMAR as a measure in order to distribute incentives and consequences for schools and school districts depending on the status of their facility maintenance. Mr. Gorrell explained that the FMAR tool requires on-site inspection and feedback to school district boards and administrations. Site visits are necessary at each school annually and generally take four to six hours per school to complete.

Members of the task force requested information regarding the status of Escalante High School, located in the Chama school district. Mr. Gorrell told the task force that the school's roof has been funded by the PSCOC and is in the process of being repaired after being poorly constructed, and it should be completed by the end of August 2012.

Mr. Gorrell also explained that HB 283 affects the way that applicant charter schools must identify facility needs. Guidelines and checklists regarding the implementation of the bill's provisions have been developed and are being deployed by the PSFA. He explained that PSFA staff members conduct assessments of charter schools and their proposed facilities, and they attempt to respond to charter school staff questions and concerns.

Mr. Gorrell said that the PSFA has also conducted a post-occupancy evaluation on recently completed school construction in order to collect information regarding design, construction and operation that can be applied to new projects. The evaluation includes a systematic review of classroom sizes, light, energy systems and other points of information. The information will be used to establish a library of best practices for school construction projects.

Mr. Gorrell referred members of the task force to a list of risks and opportunities the PSFA expects to encounter in fiscal year 2013. He said that because of the economic downturn, including a reduced budget and increased school facilities, the statewide FCI may begin to rise. Some schools do not have the appropriate staff to manage their physical plants and maintenance needs. Many large building systems are nearing the end of their lives, which increases the need for more maintenance and eventual replacement. Increased levels of reactive maintenance directly correlate to decreased levels of preventive maintenance. Mr. Gorrell emphasized the need to increase the number of PSFA staff members in order to keep up with the expanding work.

Discussion of Work Plan and Possible Formation of Task Force Subcommittees

Ms. Ball referred the task force to the proposed work plan. She noted that, in addition to its statutory duties to monitor the progress and effectiveness of programs administered under the Public School Capital Outlay Act and maintain adequate sources of long-term funding for public school capital outlay projects, the task force will consider issues related to charter schools and the standardization of lease requirements.

Members of the task force discussed the possibility that the funding formula may need to be adjusted in order to better serve rural schools. The task force also discussed the possible formation of two subcommittees: one to consider issues related to charter schools and another dedicated to considering adequacy and funding issues.

Items for Future Agendas and Other Organizational Business

Task force members discussed various future agenda items, including the need for more information and discussion regarding virtual charter schools. Representative Miera reminded members that any desired topics or items for future agendas may be submitted to Ms. Ball.

Adjournment

There being no further business before the task force, the thirty-sixth meeting of the PSCOOTF adjourned at 12:00 noon.